Ninety-Seventh Legislature - Second Session - 2002
Committee Statement
LB 407

Hearing Date: February 7, 2002
Committee On: Nebraska Retirement Systems

Introducer(s): (Nebraska Retirement Systems Committee)
Title: Change school, county, and state retirement system provisions

Roll Call Vote – Final Committee Action:

	Advanced to General File
X	Advanced to General File with Amendments
	Indefinitely Postponed

Vote Results:

6	Yes	Senator Bruning, Senator Bourne, Senator Erdman, Senator Stuhr, Senator Wehrbein, Senator Wickersham
0	No	
0	Present, not voting	
0	Absent	

Proponents:	**Representing:**
Anna Sullivan	Public Employees Retirement Board

Opponents: **Representing:**

Neutral: **Representing:**

Summary of purpose and/or changes:
LB 407, as it was introduced, proposed several administrative changes to be made to the County, School, State Patrol and State retirement systems administered by the Public Employees Retirement Board.

Explanation of amendments, if any:
The Committee amendment to LB 407 specifies the administrative changes to the County, School, State Patrol and State retirement systems administered by the Public Employees Retirement Board. In general, the changes are in the following categories:

- The membership provisions in the State, County and School plans are modified to explicitly include all plan members – both active and inactive.
- In the County, School, State Patrol and State plans, the PERB is given explicit power to issue eligibility and vesting credit regulations.

- The membership and participation in the School plan is modified, so that all regular employees who work at least 15 hours a week are mandated to participate in the plan, eliminating the "516" hour requirement for annual contributions. In the future, all such regular employees shall contribute on an annual basis.
- The granting of service credit in the School plan is modified, so that a member will receive service credit for the period worked – no matter how little that may be.
- In the School plan, the status of substitute school employees is clarified as "temporary" employees, rather than "regular" employees.

The Retirement Committee further amended LB 407 by incorporating other Legislative bills that are technical in nature that were introduced during the 2001 Legislative Session and the current session and referred to the Retirement Committee.

Each Legislative Bill included in the committee amendments is named and explained below. The testifiers, and their position, are also named.

LB 686 (Nebraska Retirement Systems Committee)

Vote Results:	6 Yes, 0 No
Proponents:	Representing:
Leslie A. Campbell (Levy)	Introducer
Anna J. Sullivan	Neb. Public Employees Retirement Systems

LB 686 was introduced by the Nebraska Retirement Systems on behalf of the Nebraska Public Employees Retirement Board. It is a technical, shell bill that proposed a change in the actuarial funding method used in the three defined benefit plans.

Committee Amendment to LB 686:

The Committee amendment sets forth specifically how the actuarial funding methods would be changed for the three defined benefit retirement plans, and also merges several separate funds and reforms the funding structure in the School Employees Retirement System. In general, the changes are in the following categories:

- Various accounts in the School plan are collapsed into one fund – including the accounts that are used to hold employer contributions, employee contributions, State contributions and the account from which member retirement benefits are paid.
- In the School plan, the Employer and Employee funding rates are frozen at current levels.
- In the School plan, future unfunded actuarial accrued liability (if any) will be paid on a 25-year amortized basis by the State, unless future actuarial gains eliminate the need for such amortized payments.
- In the School plan and beginning in 2011, the State will meet its now-existing funding obligation for the annual accrued "normal cost" of the service annuity by means of a yearly appropriation.

- In all three plans, the actuarial valuation method is changed, with future valuations being made using the “Entry Age Actuarial Cost Method.” The “Entry Age Actuarial Cost Method” is an actuarial method under which the actuarial present value of the projected benefits of each individual included in an actuarial valuation is allocated on a level basis over the earnings or service of the individual between entry age and assumed exit age(s). The portion of this actuarial present value allocated to a valuation year is called the *normal cost*. The portion of this actuarial present value not provided for at a valuation date by the actuarial present value of future normal costs is called the *actuarial accrued liability*. Under this method, the actuarial gains (losses) are reflected as they occur in a decrease (increase) in the unfunded actuarial accrued liability.

LB 1019 (Nebraska Retirement Systems Committee)

Vote Results:	6 Yes, 0 No
Proponents:	Representing:
Leslie C. Levy	Introducer
Rex Holsapple	Neb. Investment Council

LB 1019 addresses several technical changes to the Nebraska Investment Council. The first issue changes the method of allocating expenditures to avoid over allocation. The second strikes the word “domestic” thus making the composition of premixed funds for employer and employee plans consistent, and the third change makes the NIC members fiduciaries for all of the funds they manage, not just the retirement funds.

Committee Amendment to LB 1019:

The amendment inserts a separate section that sets forth the fiduciary standard for non-retirement funds in order to not violate the “exclusive benefit” rule.

The Committee amendment further provides that the allocation of charges may be made by any method determined to be reasonably related to actual costs incurred by the NIC.

LB 1027 (Wickersham)

Vote Results:	6 Yes, 0 No
Proponents:	Representing:
Sen. Wm. Wickersham	Introducer
Anna J. Sullivan	Neb. Public Employees Retirement Systems
Mike Dulaney	Neb. Council of School Administrators
Herb Schimek	Neb. State Education Assn.

Mike Dulaney	on behalf of Neb. Assn. of School Boards

The definition of termination (in the school system) is changed to specifically set forth that the employee must experience a bona fide separation from employment. The section further states that termination from employment may not have occurred if the member provides regular service to its employer or if the board (PERB) determines that a bona fide termination did not occur.

LB 1111 (Nebraska Retirement Systems Committee)

Vote Results:	6 Yes, 0 No

Proponents:	Representing:
Leslie C. Levy	Introducer
Shawn P. Nowlan	Neb. Public Employees Retirement System

LB 1111 is the Nebraska Public Employees Retirement Systems' (NPERS) annual technical clean-up bill.

The first change in LB 1111 modifies several late fees and the fee for failing to file a membership form in the School plan is abolished. The proposal is to allow flexibility in the amount of the late fee, making it up to 10% of the money that is not remitted on time to NPERS. The fee for failure to provide a membership form in the School plan is abolished since the technology plan will make membership forms obsolete.

The second change in the bill is pursuant to the implementation of the Economic Growth and Tax Reduction Reconciliation Act of 2001 (EGTRRA). For the County, State, Judges, School, and State Patrol plans, the statutory changes needed involve tax-deferred transfers of money into and out of the plans. More specifically, members are allowed to roll their retirement funds into 457 and 403(b) plans in addition to the current options of rolling into another 401(a) qualified plan or an individual retirement account.

The Plans can also accept rollovers from 457 and 403(b) plans in addition to the current options of accepting qualified plan money from another 401(a) plan or a "conduit" IRA to pay for service purchases and repayment of refunds.

Next, the forfeited employer monies in the State and County plans are immediately restored upon repayment of a termination benefit, rather than being delayed to the end of the plan year. If a non-vested member returns to work, and had taken the money in his or her employee account when they left employment, the member may repay that money in order to regain his or her forfeited employer monies. Currently, these monies are not restored until the end of the plan year during which repayment was made.

The fourth change modifies the definition of "final average compensation" in the school plan to remove references to the "plan year" and replaces them with a "twelve-month period." In the school plan, the definition of "final average compensation" is modified so that NPERS is able to determine final average compensation from the time the member is finally paid rather than being constrained by the fiscal year. This new method is intended to include all compensation up to the time the member ceases being paid by the school district. NPERS intends to issue a regulation to clarify the details of this administrative process once the bill passes.

The fifth and final change proposed in LB 1111 would enable the PERB to determine the time span between compliance audits, rather than the current "every four years" requirement found in statute. The most recent compliance audit (2002) showed that NPERS was in compliance with the federal laws pertaining to qualified pension plans. The compliance auditors commented that based on NPERS knowledge of federal law, its procedures, and the status of the retirement plans, it is not necessary to have compliance audits every four years. The most recent audit cost over $100,000. NPRES realizes that it is their fiduciary duty to have compliance audits done, they would just prefer to save the state money and not have them every four years if it is not necessary.

<u>Committee Amendment</u>:

The "ten percent rule" language was inadvertently struck from the statute during drafting. It needs to be amended back into the bill. The "ten percent rule" stated that any increase in a member's compensation that exceeds ten percent in one year shall be excluded from the determination of retirement benefits unless the substantial increase was due to a change in employment position/status or was the result of a collective bargaining agreement.

The Committee also amended LB 1111 to require that the administrative late fee be twenty-five dollars in addition to a late fee of no more than14% per annium of the amount required to be submitted (employee contribution and employer match) and that the proceeds from the interest be used to reimburse the employee for any interest they may have been deprived of due to the delay.

<u>LB 1144 (Bourne)</u>

<u>Vote Results</u>:	6 Yes, 0 No
<u>Proponents</u>:	<u>Representing</u>:
Patrick Bourne	Introducer
Michael W. Smith	Omaha School Employees Retirement System

LB 1144 incorporates into the Omaha School Employees Retirement System (OSERS) changes pursuant to the implementation of the Economic Growth and Tax Reduction Reconciliation Act of 2001 (EGTRRA). These changes would permit rollover contributions to be accepted by OSERS from tax-sheltered annuities, individual retirement accounts and 457(b) governmental deferred compensation plans for the purchase of service credits. Also authorized are direct transfers from 457(b) plans.

These changes do not expand the types of service credits that can be purchased. These changes only permit OSERS to accept funds from additional forms of tax deferred retirement savings accounts.

The following is a breakdown of the bill's sections after the above bills were amended onto LB 407:

Sections 1-10, pages 1-19 apply to the County Employees' Retirement;
Sections 11-15, pages 19-28 apply to the Judges' Retirement;
Sections 16-18, pages 28-32 apply to the Neb. Investment Council;
Sections 19-44, pages 32-71 apply to the Public Schools' Retirement;
Section 45 pages 71-74 apply to the Class V School System;
Sections 46-51, pages 74-82 apply to the State Patrols' Retirement;
Sections 52-60, pages 82-100 apply to the State Employees' Retirement;
Section 61 pages 100-106 apply to the Public Employees Retirement Board;
Sections 62-66, page 106-107 are the operative dates, E-Clause, and repealers.

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Senator Jon Bruning, Chairperson